

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
08G0454

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IN THE MATTER OF

Kenneth D. Snow,  
Attorney At Law

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REPRIMAND

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On July 23, 2009 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by S. P.

Pursuant to Section .0113(a) of the Discipline and Disability Rules of the North Carolina State Bar, the Grievance Committee conducted a preliminary hearing. After considering the information available to it, including your response to the letter of notice, the Grievance Committee found probable cause. Probable cause is defined in the rules as "reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action."

The rules provide that after a finding of probable cause, the Grievance Committee may determine that the filing of a complaint and a hearing before the Disciplinary Hearing Commission are not required, and the Grievance Committee may issue various levels of discipline depending upon the misconduct, the actual or potential injury caused, and any aggravating or mitigating factors. The Grievance Committee may issue an admonition, a reprimand, or a censure to the respondent attorney.

A reprimand is a written form of discipline more serious than an admonition issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused harm or potential harm to a client, the administration of justice, the profession, or a member of the public, but the misconduct does not require a censure.

The Grievance Committee was of the opinion that a censure is not required in this case and issues this reprimand to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this reprimand.

S.P. contacted you for assistance in seeking to adopt her granddaughter. S.P. had an initial meeting with you and attorney Naadei Dzani, at which you presented S.P. with an "Agreement for Legal Services" with your law firm, Coble & Snow, LLP. Ms. Dzani was not employed by your firm but you arranged to "co-represent" S.P. Pursuant to this arrangement, which was not set forth in the written Agreement, you would receive 30% of the fees and Ms.

Dzani would receive 70%. This arrangement was in violation of Rule 1.5(e), which prohibits the division of fees between lawyers not in the same firm.

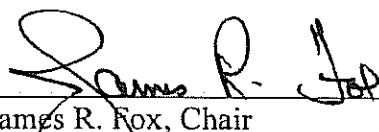
The Agreement for Legal Services you presented to S.P. is misleading in several respects. First, the statement "if Client fails to pay any billing statement of the Law Firm within ten (10) days . . . the Law Firm may withdraw" is misleading in that it suggests to the client that s/he will be immediately and unilaterally dropped for nonpayment. Rule 1.16(c) requires a lawyer to comply with applicable law requiring permission of a tribunal before withdrawing, and to continue representation if required by the court, so it is misleading to suggest that a lawyer can withdraw at will simply because fees are 10 days overdue. In addition, is a material misrepresentation of law to state "if a judgment or order is obtained on behalf of Client in Client's case, whether obtained by Law Firm or by subsequent counsel, . . . Law Firm may obtain an attorney's charging lien." Under North Carolina law, a lawyer is not entitled to an attorney charging lien if the settlement or judgment is obtained by subsequent counsel. Finally, it is misleading to state that a client file is the "exclusive property of the Law Firm" and that the "Law Firm shall not be obliged to preserve Client's file" after the representation. In fact, the original file belongs to the client, and "absent the client's consent to disposal of a file, a closed file must be retained for a minimum of six years after the conclusion of the representation." RPC 209. These statements in your Agreement for Legal Services constitute misleading communication about your services, in violation of Rule 7.1(a).

You accepted S.P.'s case even though neither you nor Ms. Dzani had handled an adoption case before. You did not associate with a lawyer who has experience in adoption matters, and therefore violated Rule 1.1, which provides that a lawyer shall not handle a legal matter he is not competent to handle without associating with a lawyer who is competent to handle the matter.

You are hereby reprimanded by the North Carolina State Bar for your professional misconduct. The Grievance Committee trusts that you will heed this reprimand, that it will be remembered by you, that it will be beneficial to you, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession.

In accordance with the policy adopted January 24, 2008 by the Council of the North Carolina State Bar regarding the taxing of the administrative and investigative costs to any attorney issued a reprimand by the Grievance Committee, the costs of this action in the amount of \$100.00 are hereby taxed to you.

Done and ordered, this the 18 day of August, 2009

  
James R. Fox, Chair  
Grievance Committee